UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/SR.1444
2 August 1995

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Fifty-fourth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1444th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 28 July 1995, at 10 a.m.

Chairman: Mr. AGUILAR URBINA

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* The summary record of the second part (closed) of the meeting appears as document CCPR/C/SR.1444/Add.1.

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.95-17966 (E)

The meeting was called to order at 10.10 a.m.

ANNUAL REPORT OF THE COMMITTEE TO THE GENERAL ASSEMBLY THROUGH THE ECONOMIC AND SOCIAL COUNCIL UNDER ARTICLE 45 OF THE COVENANT AND ARTICLE 6 OF THE OPTIONAL PROTOCOL (agenda item 8) (continued)

Follow-up activities under the Optional Protocol (CCPR/C/54/CRP.1/Add.9) (continued)

Paragraphs 1-3

1. Paragraphs 1-3 were adopted.

Paragraph 4

2. Mrs. HIGGINS proposed that the first sentence should be amended to read: "There are certain difficulties in attempting to categorize follow-up replies."

3. Paragraph 4, as amended, was adopted.

Paragraph 5

4. Paragraph 5 was adopted.

Paragraph 6

5. Ms. EVATT observed that the words "and still outstanding" in the introductory sentence seemed to be superfluous and could be misleading.

6. Mr. SCHMIDT (Centre for Human Rights) said that the list contained in the paragraph included all States parties in respect of which the Committee had adopted views with a finding of violation.

7. Paragraph 6 was adopted.

Paragraph 7

8. Paragraph 7 was adopted.

Paragraph 8

9. Ms. MEDINA QUIROGA drew attention to an unacceptable rendering of "ex gratia" in the Spanish text. The term in Latin should be retained.

10. Paragraph 8 was adopted.

Paragraph 9

11. Mrs. HIGGINS submitted that the Committee's conclusion in the case of Peru was sufficiently important to merit a separate paragraph, comprising the last two sentences of paragraph 9.

12. It was so agreed.

13. Paragraph 9, as amended, was adopted.

Paragraphs 10-12

14. Paragraphs 10-12 were adopted.

Paragraph 13

15. In response to an observation by Mr. BUERGENTHAL, Mr. MAVROMMATIS (Special Rapporteur on Follow-up of Views) agreed that paragraph 13 should be amended to indicate that he had also held discussions in Jamaica with representatives of non-governmental organizations (NGOs).

16. Paragraph 13, as amended, was adopted.

Paragraph 14

17. Paragraph 14 was adopted.

Paragraph 15

18. Ms. EVATT inquired whether more detailed reference might not be made to the nature of the "constraints" which made it difficult for the State party to implement the release of prisoners, as mentioned in the second sentence.

19. Mr. MAVROMMATIS (Special Rapporteur on Follow-up of Views) said it was his understanding that implementation of the Committee's recommendations by the State party was difficult mainly because the Jamaican Privy Council, which held the prerogative of pardon, was an independent constitutional body, whose decisions could not be influenced by the Government.

20. Mr. LALLAH asked why the Jamaican Privy Council, when considering the exercise of that prerogative, might not take account, inter alia, of the Committee's views.

21. Mr. MAVROMMATIS (Special Rapporteur on Follow-up of Views) said that one achievement of the mission was the promise received that the Committee's views would indeed be taken into account, both by the Jamaican Privy Council and by the Parole Boards. That was why it was so important to maintain contact with the Jamaican authorities in the quest for appropriate mechanisms that were not unconstitutional for the implementation of the Committee's views.

22. Ms. MEDINA QUIROGA observed that, however it was worded, the text must not give the impression that the State party was in some way excused for not carrying out its obligations under the Covenant.

23. Ms. EVATT said that she would be satisfied if the specific reference to the release of prisoners was deleted.

24. Paragraph 15, as amended, was adopted.

Paragraph 16

25. Mr. KRETZMER said that, notwithstanding any factual divergences of opinion, to refer to "a reluctance, on the part of some officials of the Jamaican Government" might be to introduce an unwelcome divisive note; he would prefer the phrase "... some reluctance on the part of the Jamaican Government".

26. It was so agreed.

27. Mrs. HIGGINS observed that the subject of that reluctance should more properly be referred to as the Committee's "views" rather than "recommendations". She added that she would prefer the less colloquial "much" to "a lot" in the final sentence of the paragraph.

28. Ms. EVATT agreed with the previous speaker and submitted that, wherever reference was made in the text to the Committee's "recommendations", that word should be replaced by "views".

29. It was so agreed.

30. Mr. BUERGENTHAL suggested that the second sentence should be linked to the first by a comma and begin with the more tactful "implying a reluctance ...".

31. It was so agreed.

32. Paragraph 16, as amended, was adopted.

Paragraph 17

33. Paragraph 17 was adopted.

Paragraph 18

34. Mr. MAVROMMATIS (Special Rapporteur on Follow-up of Views) proposed the replacement of "not insubstantial compliance" by "improved compliance", and the removal of the square brackets.

35. Mr. KRETZMER proposed "a greater degree of", instead of "improved".

36. Paragraph 18, as amended, was adopted.

Paragraph 19

37. Mrs. CHANET (Rapporteur) proposed, in the interest of egalitarian treatment of all the "blacklisted" States parties, more than one of which had given promises, that the specific reference to the assurance of follow-up replies by Jamaica should be deleted and replaced by an indication of the number of reminders sent.

38. In response to inquiries by Mr. LALLAH and Mr. POCAR, Mr. MAVROMMATIS (Special Rapporteur on Follow-up of Views) said that on the basis of his mission he firmly believed there to have been partial compliance by Jamaica; he also believed that the improvement would continue.

39. Mr. POCAR submitted that, as drafted, the section of the draft report under consideration was self-contradictory - in one place it referred to the absence of replies by Jamaica, and in another two to a degree of compliance which seemed difficult to determine. The actual situation should be spelt out more clearly.

40. The CHAIRMAN, speaking in his personal capacity, said that he, too, saw inconsistencies in the text.

41. Mr. FRANCIS suggested that the confusion arose from the fact that a situation of non-compliance in the past had been modified through the mission of the Special Rapporteur.

42. Mr. LALLAH said he understood that the 18 Jamaican cases concerning which no replies had been received, as mentioned in the list in paragraph 19, were different from those mentioned earlier in the text. That might be made more explicit, for example in paragraph 18.

43. Mr. MAVROMMATIS (Special Rapporteur for Follow-up of Views) said that in the 18 cases referred to, there had been de facto partial compliance. The absence of follow-up replies was - he considered - a mere formality.

44. Ms. EVATT suggested that, for the sake of clarity, cross-headings might be inserted in the text to indicate clearly which paragraphs related specifically to the Special Rapporteur's mission to Jamaica. Paragraph 19 was more generally concerned with failures to reply. It should be made clear that the mission had only related to the 18 cases concerning which - as indicated in the list in paragraph 6 - Jamaica had not submitted follow-up replies; a footnote to that paragraph would direct the reader to the account of the mission, and the developments in those cases.

45. Mr. KLEIN, supported by Mr. LALLAH, suggested that Jamaica might be removed from the list in paragraph 19, and the relevant information inserted in the account of the mission.

46. Mr. MAVROMMATIS (Special Rapporteur on Follow-up of Views) shared that opinion. He specified that there were 21 sets of views concerning capital crimes in Jamaica in which the Committee called for release; in each case, the sentences had been commuted. In the Pratt and Morgan case, commutation had been requested by the Committee and accorded. In four cases, the Committee had suggested compensation; that, too, would be granted. To his mind, those developments constituted a fairly considerable degree of compliance.

47. The CHAIRMAN asked if the Committee wished Jamaica to be removed from the list in paragraph 19.

48. Ms. EVATT said that her acceptance of that deletion would be subject to the understanding that it would be indicated, at some point in the text, that Jamaica had not submitted formal follow-up replies.

49. Mr. MAVROMMATIS (Special Rapporteur on Follow-up of Views) said he believed such a formality to be unnecessary, given the assurances and demonstrations of compliance he had received in Jamaica, as stated a moment earlier.

50. Mr. FRANCIS said that, upon his return to Jamaica, he would insist that a formal reply should be addressed to the Committee.

51. Ms. EVATT said that if the Special Rapporteur equated the assurances he had received with formal replies, then that should be duly recorded as the reason for not including Jamaica in the list of States which had not replied.

52. Mrs. CHANET recalled that in 1994, with regard to a case concerning France, the absence of a formal follow-up reply had been considered as an inexcusable omission, despite the assurance given to the Committee by Mr. Ndiaye that the victims of the violation in question had been compensated. It was important that in the matter of assurances and promises, as in the matter of follow-up replies, all States should be treated in the same manner.

53. Mr. LALLAH remarked that the French case had not been the subject of a mission by the Special Rapporteur, in the course of which significant information had been formally, albeit orally, provided.

54. Mr. KLEIN concurred. Jamaica had responded; consequently it had no place in the list in paragraph 19.

55. Mr. MAVROMMATIS (Special Rapporteur on Follow-up of Views) stressed that his had been a fact-finding mission; an abundance of replies had been furnished in response to his inquiries; documented action had been taken; and in any case he was sure that formal replies would be forthcoming very shortly.

56. The CHAIRMAN asked whether the Committee agreed to the removal of Jamaica from the list in paragraph 19, on the understanding that an explanation would be provided in the report.

57. It was so agreed.

58. Paragraph 19, as amended, was adopted.

Paragraphs 20 and 21

59. Paragraphs 20 and 21 were adopted.

60. The draft annual report of the Human Rights Committee (CCPR/C/54/CRP.1 and Add.1-9) as a whole, as amended, was adopted.

The public meeting was suspended at 10.55 a.m.
and resumed at 11.35 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

61. The CHAIRMAN noted that the Working Group on Communications was composed of Mr. Bán, Mr. Bhagwati, Mr. Buergenthal, Ms. Evatt and Mr. Mavrommatis and the Working Group on Article 40 of Mr. Francis, Mr. Lallah, Ms. Medina Quiroga and Mr. Aguilar Urbina.

62. Mr. KRETZMER asked whether it would be possible, starting at the next session, to plan the working groups not only for the following session but for a year in advance.

63. The CHAIRMAN said that that should be possible.

64. On another matter, he said that the report of the United Kingdom of Great Britain and Northern Ireland on Hong Kong had been received and would shortly be circulated to the members of the Committee. A 20-page document from Latvia had been received containing replies to questions that the delegation had been unable to answer when the initial report was being considered. A letter had also been received from the Permanent Representative of Ukraine to the United Nations Office at Geneva containing observations on the Committee's final comments concerning the fourth periodic report of Ukraine.

65. As two members of the Working Group on Article 40, Mr. Lallah and Ms. Medina Quiroga, might not be able to attend the next session, the Bureau suggested that the Committee should deal with only four reports and devote more time to communications. The reports would be those of Afghanistan, Spain, Estonia and the United Kingdom on Hong Kong. The Bureau also suggested that the reports of Sweden and Zambia should be kept in reserve for possible consideration. If he heard no objection, he would take it that the Committee wished to adopt those suggestions.

66. It was so decided.

TRIBUTE BY THE COMMITTEE TO AN OUTGOING MEMBER

67. The CHAIRMAN said that the Committee's feelings as it took leave of Mrs. Higgins could best be expressed by a verse from a Spanish song: Algo se pierde en el alma cuando un amigo se va; cuando un amigo se va, siempre se queda una huella que no se puede borrar (Something is lost from the soul when a friend goes away; the parting of a friend leaves a trace that cannot be erased).

68. Ms. EVATT said that the Committee would try to maintain Mrs. Higgins's standards of rigour, which she always combined with compassion and humanity.

69. Mr. MAVROMMATIS said he was sure that the Committee had benefited sufficiently from Mrs. Higgins's vast experience to keep up her good work.

70. Mr. EL SHAFEI thanked Mrs. Higgins for everything and wished her all the best in her future work.

71. Mr. PRADO VALLEJO said that he would not say goodbye but au revoir and wished Mrs. Higgins every success in her work for the International Court of Justice (ICJ).

72. Mr. ANDO said that, in bidding farewell to Mrs. Higgins, he felt sure that she would remain his mentor for the remainder of his service to the Committee.

73. Mr. POCAR remarked that the Committee had been very lucky to benefit from the services of Mrs. Higgins for the previous 10 years. He wished her well in her new functions at the ICJ.

74. Mr. BUERGENTHAL said he regretted that his recent arrival on the Committee had left him only a short time to learn from the experience of Mrs. Higgins. He trusted that she would endeavour in her new work to ensure that the international law climate was such as to facilitate the Committee's work.

75. Mr. BÁN said that as a relatively recent member he was grateful to Mrs. Higgins for having shared her knowledge with the new members.

76. Mrs. CHANET wished Mrs. Higgins every success. She would miss their spirited exchanges over the preceding eight years, which had always ended well and which had been an enriching experience.

77. Mr. BHAGWATI said that in two sessions together he had learned a great deal from Mrs. Higgins about the workings of the Committee. He was sure that even from afar she would continue to inspire the members in their work.

78. Mr. BRUNI CELLI said that the friendship that Mrs. Higgins inspired was based not only on appreciation of her great human qualities but also on admiration for her knowledge and competence.

79. Mr. FRANCIS said that his sadness at the departure of Mrs. Higgins was tempered with joy at the knowledge that she was about to become a cornerstone of the ICJ and to make just as monumental a contribution to that institution as to the Committee.

80. Mr. KRETZMER quoted in Hebrew a blessing from the Bible for a person about to embark on a special task. He translated it as "May God bless you and help you in peace."

81. Mr. KLEIN said that he had greatly appreciated the assistance, kindness and support he had received from Mrs. Higgins. Although he regretted her departure, he knew that the ICJ was the appropriate place for a person of her competence.

82. Ms. MEDINA QUIROGA said that she did not wish to end on a sad note. She was personally very proud that Mrs. Higgins was the first women to be elected to the ICJ.

83. Ms. KLEIN (Representative of the Secretary-General) said that working with such an eminent international lawyer had been of great benefit and satisfaction to the Secretariat. Mrs. Higgins had always put the Committee first and was invariably reliable and punctual as well as being a warm human being. She wished every success to Judge Higgins, DBE QC.

84. Mrs. HIGGINS said that she had been extremely proud to serve in a committee of experts and not of representatives of Governments. Every State knew that the attitudes of its members were not to be surmised by reference to their nationality but by reference to the Covenant. They also knew that members could not be played off against one another. There was a striking unity of approach, the seeds of which had been sown in the early days of the Committee, prior to her arrival. Every opportunity had been seized then and ever since to promote human rights. During her own 10 years of service, procedures had been significantly improved and case law had been developed. She had no doubt that the Committee would carry on the good work.

85. The wave of affection and warmth that had greeted her when she had arrive to attend the Committee's session after her election to the ICJ and that had surrounded her since was something that she would never forget.

CLOSURE OF THE SESSION

86. After an exchange of courtesies, the CHAIRMAN declared the fifty-fourth session of the Committee closed.

The meeting rose at noon.